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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,718	09/17/2003	Charles Eric Hunter	0103637-0533877	2224

26874 7590 08/27/2008  
FROST BROWN TODD, LLC  
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EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3688

NOTIFICATION DATE	DELIVERY MODE
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08/27/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@fbtlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,718	<b>Applicant(s)</b> HUNTER ET AL.	
	<b>Examiner</b> Raquel Alvarez	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/18/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to communication filed on 5/27/2008.
2. Claims 1-7 are presented for examination.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Carney et al. (6,408,278 hereinafter Carney).

With respect to claims 1-2 and 6, Carney teaches a merchandise system permitting participating merchants to place video or still-image advertisements at selected times and locations on a network of multiple displays screens, and permitting customers of the merchants to respond to the advertisements by placing orders for advertised products through an order processing system (Abstract).

A network including a plurality of display screens (Figure 1, 14a-14n);

Means permitting participating merchants to place video or still-image advertisements at selected times on selected ones of the network's display screens, wherein the means permitting participating merchants to place video or still-image advertisements comprises a means permitting merchants to select particular display

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screens for placement of advertisements (i.e. by the merchants/clients selecting the location of where to place the ad for example, Airport in essence he is selecting the display associated with that particular location, which in this case is display device 14n) (Figures 3 and 9);

The advertisements on the displays including a unique product order number for each product offered for sale by the participating merchants (i.e. the user uses gathering device 32b to order products or services advertised);

An order processing system that permits customers of the merchants to order products from the array of products offered by the participating merchants on the electronic billboard display advertisements, said order processing system including a customer interface for receiving incoming orders from customers ordering products by reference to the displayed product order numbers, means for matching each incoming product order to the customer placing the order, the product ordered and the participating merchant offering the product, and means for communicating sufficient customer and product information to the participating merchant so that the merchant can fulfill the order ( see Figure 6).

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carney.

Claims 3-4 further recites a telephone interface including identification means consisting of call no. ID and voice recognition. Official Notice is taken that it is old and well known to use caller's ID and voice recognition in order to easily identify the caller. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included call no. ID and voice recognition in order to achieve the above mentioned advantage.

Claims 5 and 7 further recite GPS means for determining the location of customers during the customer's placement of the orders. Official Notice is taken that it is old and well known to use GPS for determining an exact location. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included included GPS means for determining the location of customers during the customer's placement of the orders in order to determine the location that the user placed the order from.

#### **Response to Arguments**

7. Applicant's arguments filed 5/27/2008 have been fully considered but they are not persuasive.

Applicant argues that Applicant submits that Carney fails to teach "a means permitting merchants to select particular display screens for placement of advertisements." Applicant further states that to the contrary, Carney teaches that the system itself selects particular display screens for placement of advertisements, based

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on desired demographic information and other information submitted by a user. The Examiner wants to point out that by the merchants/clients selecting the location of where to place the ads for example, **Airport** in essence he is selecting the display associated with that particular location, which in this case is display device 14n. Each location is associated with a particular display device ( Figures 3 and 9).

Applicant argues that Carney doesn't teach permitting a participating merchant to place video or still-image advertisements at selected times on display screens selected by the merchant. The Examiner disagrees with Applicant because Carney clearly teaches on step 108, the users/merchants selecting the programming template to place on display devices 14a-14n. The template including full motion, **video**, **still frame**, text and so on.

### **Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
8/22/2008